

042104

23026 U.S.PTO

10/830189 464 U.S.PTO

042104

PTO/SB/05 (01-04)

Approved for use through 07/31/2006. OMB 0651-0032
U.S. Patent and Trademark Office. U.S. DEPARTMENT OF COMMERCE

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UTILITY PATENT APPLICATION TRANSMITTAL

(Only for new nonprovisional applications under 37 CFR 1.53(b))

Attorney Docket No.	028US2
First Inventor	Brian S. Kelleher
Title	Electromyography System
Express Mail Label No.	ER146766745US

APPLICATION ELEMENTS

See MPEP chapter 600 concerning utility patent application contents.

1. Fee Transmittal Form (e.g., PTO/SB/17)
(Submit an original and a duplicate for fee processing)
2. Applicant claims small entity status.
See 37 CFR 1.27.
3. Specification [Total Pages 41]
(preferred arrangement set forth below)
 - Descriptive title of the invention
 - Cross Reference to Related Applications
 - Statement Regarding Fed sponsored R & D
 - Reference to sequence listing, a table, or a computer program listing appendix
 - Background of the Invention
 - Brief Summary of the Invention
 - Brief Description of the Drawings (if filed)
 - Detailed Description
 - Claim(s)
 - Abstract of the Disclosure
4. Drawing(s) (35 U.S.C. 113) [Total Sheets 9]
5. Oath or Declaration [Total Sheets 1]
 - a. Newly executed (original or copy)
 - b. Copy from a prior application (37 CFR 1.63(d))
(for continuation/divisional with Box 18 completed)
 - i. **DELETION OF INVENTOR(S)**
Signed statement attached deleting inventor(s) name in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b).
6. Application Data Sheet. See 37 CFR 1.76

ADDRESS TO:
Mail Stop Patent Application
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

7. CD-ROM or CD-R in duplicate, large table or Computer Program (Appendix)
8. Nucleotide and/or Amino Acid Sequence Submission (if applicable, all necessary)
 - a. Computer Readable Form (CRF)
 - b. Specification Sequence Listing on:
 - i. CD-ROM or CD-R (2 copies); or
 - ii. Paper
 - c. Statements verifying identity of above copies

ACCOMPANYING APPLICATION PARTS

9. Assignment Papers (cover sheet & document(s))
10. 37 CFR 3.73(b) Statement Power of Attorney
11. English Translation Document (if applicable)
12. Information Disclosure Statement (IDS)/PTO-1449 Copies of IDS Citations
13. Preliminary Amendment
14. Return Receipt Postcard (MPEP 503)
(Should be specifically itemized)
15. Certified Copy of Priority Document(s)
(if foreign priority is claimed)
16. Nonpublication Request under 35 U.S.C. 122 (b)(2)(B)(i). Applicant must attach form PTO/SB/35 or its equivalent.
17. Other: Declaration, Cover Letter.....

18. If a CONTINUING APPLICATION, check appropriate box, and supply the requisite information below and in the first sentence of the specification following the title, or in an Application Data Sheet under 37 CFR 1.76:

Continuation Divisional Continuation-in-part (CIP) of prior application No.: 09/722,070.....

Prior application information: Examiner William Charles Doerrler Art Unit: 3744
For CONTINUATION OR DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

19. CORRESPONDENCE ADDRESS

Customer Number: 30,328 OR Correspondence address below

Name			
Address			
City	State	Zip Code	
Country	Telephone	Fax	

Name (Print/Type)	Jonathan Spangler	Registration No. (Attorney/Agent)	40,182
Signature			

This collection of information is required by 37 CFR 1.59(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Patent Application, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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2 FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT **(\$)** 502.00

Complete if Known

Application Number	TBD
Filing Date	April 21, 2004
First Named Inventor	Brian S. Kelleher
Examiner Name	William Charles Doerrler
Art Unit	3744
Attorney Docket No.	028US2

METHOD OF PAYMENT (check all that apply)

Check Credit card Money Order Other None

Deposit Account:

Deposit Account Number 502040
Deposit Account Name NuVasive, Inc.

The Director is authorized to: (check all that apply)

Charge fee(s) indicated below Credit any overpayments
 Charge any additional fee(s) or any underpayment of fee(s)
 Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION**1. BASIC FILING FEE**

Large Entity	Fee Code (\$)	Fee Code (\$)	Fee Description	Fee Paid
1001	770	2001	385	Utility filing fee 385
1002	340	2002	170	Design filing fee
1003	530	2003	265	Plant filing fee
1004	770	2004	385	Reissue filing fee
1005	160	2005	80	Provisional filing fee
SUBTOTAL (1)				(\$) 385.00

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims	Extra Claims	Fee from below	Fee Paid
33	-20** = 13	x 9	= 117
Independent Claims 1	- 3** =	x	= 0
Multiple Dependent			

Large Entity	Fee Code (\$)	Small Entity	Fee Code (\$)	Fee Description
1202	18	2202	9	Claims in excess of 20
1201	86	2201	43	Independent claims in excess of 3
1203	290	2203	145	Multiple dependent claim, if not paid
1204	86	2204	43	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent
SUBTOTAL (2)				(\$) 117.00

**or number previously paid, if greater. For Reissues, see above

3. ADDITIONAL FEES

Large Entity	Fee Code (\$)	Fee Code (\$)	Fee Description	Fee Paid
1051	130	2051	65 Surcharge - late filing fee or oath	
1052	50	2052	25 Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130 Non-English specification	
1812	2,520	1812	2,520 For filing a request for ex parte reexamination	
1804	920*	1804	920* Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840* Requesting publication of SIR after Examiner action	
1251	110	2251	55 Extension for reply within first month	
1252	420	2252	210 Extension for reply within second month	
1253	950	2253	475 Extension for reply within third month	
1254	1,480	2254	740 Extension for reply within fourth month	
1255	2,010	2255	1,005 Extension for reply within fifth month	
1401	330	2401	165 Notice of Appeal	
1402	330	2402	165 Filing a brief in support of an appeal	
1403	290	2403	145 Request for oral hearing	
1451	1,510	1451	1,510 Petition to institute a public use proceeding	
1452	110	2452	55 Petition to revive - unavoidable	
1453	1,330	2453	665 Petition to revive - unintentional	
1501	1,330	2501	665 Utility issue fee (or reissue)	
1502	480	2502	240 Design issue fee	
1503	640	2503	320 Plant issue fee	
1460	130	1460	130 Petitions to the Commissioner	
1807	50	1807	50 Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180 Submission of Information Disclosure Stmt	
8021	40	8021	40 Recording each patent assignment per property (times number of properties)	
1809	770	2809	385 Filing a submission after final rejection (37 CFR 1.129(a))	
1810	770	2810	385 For each additional invention to be examined (37 CFR 1.129(b))	
1801	770	2801	385 Request for Continued Examination (RCE)	
1802	900	1802	900 Request for expedited examination of a design application	

Other fee (specify) _____

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) **(\$)**

(Complete if applicable)				
Name (Print/Type)	Jonathan Spangler	Registration No. (Attorney/Agent)	40,182	Telephone 858-243-0029
Signature			Date	April 21, 2004

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

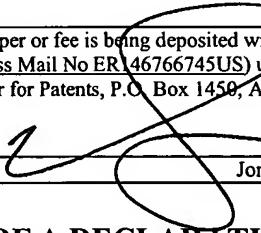
This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Patent Application of)
Brian Kelleher et. al) Group Art Unit: 3744
App. Ser. No. TBD) Examiner: William Charles Doerrler
Filed: April 21, 2004)
For: ELECTROMYOGRAPHY)
SYSTEM)
)

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service (Express Mail No ER146766745US) under 37 CFR 1.10 on April 21, 2004 and is directed to: Mail Stop: Patent Application, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.


Jonathan D. Spangler

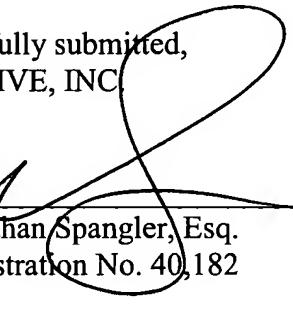
COPY OF A DECLARATION IN A DIVISIONAL APPLICATION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The attached U.S. Patent Application is a divisional application of previously filed parent application 09/722,070. As per 37 CFR 1.63(d), a copy of the originally executed declaration relating to the parent application is filed herewith. This copy is hereby intended to apply to the attached newly submitted divisional application (Attorney Ref. No. 028US2).

Respectfully submitted,
NUVASIVE, INC.

By: 
Jonathan Spangler, Esq.
Registration No. 40,182

April 21, 2004